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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/660,917	09/12/2003	Joseph James Ghiringhelli	Ghiringhelli;	7342

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RISTO A. RINNE, JR.  
COMPLETE PATENTING SERVICES  
2173 EAST FRANCISCO BOULEVARD, SUITE E  
SAN RAFAEL, CA 94901

EXAMINER
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KATCHEVES, BASIL S

ART UNIT	PAPER NUMBER
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3635

DATE MAILED: 01/31/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/660,917

Applicant(s)

GHIRINGHELLI, JOSEPH JAMES

Examiner

Basil Katcheves

Art Unit

3635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 12 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 15 is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 9 recites the limitation "said means for mounting" in line 1. There is insufficient antecedent basis for this limitation in the claim.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5 and 8-12 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,904,461 to McKarge, Jr.

Regarding claim 1, McKarge discloses a spacer having a body with two opposing planar sides, a shape and a thickness. McKarge also discloses the body as having a bolt hole (fig. 7: 22) and a means for attachment (fig. 7: 36 & fig. 8: 32) which is separate from the bolt hole.

Regarding claim 2, McKarge discloses the means of attaching as a plurality of holes (fig. 7: 36) through the body.

Regarding claim 3, McKarge discloses the spacer as having three mounting holes that are equidistant from the bolt hole, and the bolt hole is in the geometric center of the spacer (fig. 7: 22 & 36).

Regarding claim 4, McKarge discloses a cylindrical shape (fig. 9: upper cylinder 30, and lower cylinder 21) with the bolt hole passing through.

Regarding claim 5, McKarge discloses a first planar side (fig. 9: top 30 and underside of 30) and second planar side which are parallel.

Regarding claim 8, McKarge discloses a first planar side (fig. 3: top of 32) which is not parallel to the other side (fig. 3: under 30).

Regarding claim 9, McKarge discloses pointed protrusions (fig. 8: 32) extending from the bottom side of (32).

Regarding claim 10, McKarge discloses three pointed protrusions which are an equidistance from the bolt hole and the bolt hole is in the center of the spacer (fig. 7).

Regarding claim 11, McKarge discloses the bolt hole as being threaded (fig. 6: 22).

Regarding claim 12, applicant should note that the member is not positively claimed and since the spacer of McKarge is capable of being connected to a ledger board, therefore meeting the limitations of the claim.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,904,461 to McKarge, Jr.

Regarding claim 6, McKarge does not specifically disclose the use of two spacers, one top surface (30) mounted against a second top surface (30). However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to place two spacers together, top to top, in order to secure panel faces together with a single bolt. In such a case, the three mounting holes and bolt hole would line up together with the second spacer. Also, McKarge discloses the basic claim structure of the instant application but does not disclose specific dimensions of thickness such as in the instant application. Applicant fails to show criticality for specifically claimed dimensions, therefore it would have been an obvious design choice to use the dimensions such as specified in these claims.

Regarding claim 7, McKarge discloses the basic claim structure of the instant application but does not disclose specific dimensions of the spacer as claimed in the instant application. Applicant fails to show criticality for specifically claimed dimensions, therefore it would have been an obvious design choice to use the dimensions such as specified in these claims.

Claims 13 and 14 rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,904,461 to McKarge, Jr. in view of U.S. patent No. 3,331,272 to Hanneman.

Regarding claim 13, McKarge discloses the basic claim structure of the instant application as claimed in the previous claims as above. However, McKarge does not disclose a second planar surface having at least two parallel surfaces adapted for rotating with a tool around the center of the bolt hole. Hanneman discloses a spacer with a second top surface having parallel sides (fig. 8: 14a) for rotating by a tool. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify McKarge by adding the hexagonal head, as disclosed by Hanneman, in order to better secure the spacer while the bolt is being inserted into the bolt hole and thus, prevent any stripping of substrate by the protrusions (30).

Regarding claim 14, McKarge in view of Hanneman discloses six continuous planar surfaces including three distal pairs to form a hexagonal shape (fig. 1: 14).

### ***Allowable Subject Matter***

Claim 15 is allowed.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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The cited patents listed on the included form PTO-892 further show the state of the art with respect to spacers in general.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Basil Katcheves whose telephone number is (703) 306-0232. The examiner can normally be reached on Monday-Friday from 7:30 am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Friedman, can be reached at (703) 308-0832.

BK

  
Basil Katcheves

1/27/05

Examiner AU 3635